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09/784,622	02/14/2001	Frederik Ekkel	000117	2720

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EXAMINER

KANG, PAUL H

ART UNIT PAPER NUMBER

2141

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,622

Applicant(s)

EKKEL, FREDERIK

Examiner

Paul H. Kang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/19/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. **Claims 1-5, 7-10 and 13 are rejected under 35 U.S.C. 102(a) as being anticipated by Schmier et al., US Pat. No. 6,006,159.**

3. As per claim 1, Schmier discloses, for user in a communication-restricted environment that blocks public access to an information content that would otherwise be available except for being within the communication-restricted environment, a method of providing to an individual access to the information content (col. 3, lines 12 – 59), the method comprising:

a transit terminal that includes one of an airport, a spaceport, a boat dock, a train station, and a bus stop, providing access over an information network to a repository hosting the information content (col. 3, lines 12 – 23);

at the transit terminal, enabling to transfer the information content over the network from the repository to a mobile storage medium (col. 3, lines 12 – 59 and col. 14, lines 38-50); and

providing use of the information content from the storage medium to the individual in the communication-restricted environment (e.g., use of information on an airplane, col. 3, lines 12 – 59 and col. 14, lines 38-50).

4. As per claim(s) 2 Schmier teaches the claimed invention as described in claim(s) 1 above and furthermore discloses downloading the information content from the repository onto the mobile storage medium, (col. 3, lines 12 – 59).

5. As per claim(s) 3 Schmier teaches the claimed invention as described in claim(s) 1-2 above and furthermore discloses providing an apparatus at the transit terminal to allow the individual to cause the transfer of the information content, (col. 3, lines 12 – 59 and col. 14, lines 38-50).

6. As per claim(s) 4 Schmier teaches the claimed invention as described in claim(s) 1-3 above and furthermore discloses the information network comprises the Internet, (col. 3, lines 12 – 59 and col. 14, lines 38-50).

7. As per claim(s) 5 Schmier teaches the claimed invention as described in claim(s) 1-4 above and furthermore discloses transferring the information content is enabled over a wireless communication channel, (col. 3, lines 12 – 59 and col. 14, lines 38-50).

8. As per claim(s) 7 Schmier teaches the claimed invention as described in claim(s) 1-6 above and furthermore discloses the storage medium is provided to the individual when entering a means of transportation (col. 3, lines 12 – 59 and col. 14, lines 38-50).

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9. As per claim(s) 8 Schmier teaches the claimed invention as described in claim(s) 1-7 above and furthermore discloses identifying the individual; upon identification, enabling the individual to select the information content from a plurality of information contents; and, downloading the selected information content onto the mobile storage medium, (col. 3, lines 12 – 59 and col. 14, lines 38-50).

10. As per claim(s) 9 Schmier teaches the claimed invention as described in claim(s) 1-8 above and furthermore discloses enabling the individual enter identification information; selecting the information content based on the identification information; and, downloading the information content, (col. 3, lines 12 – 59 and col. 14, lines 38-50).

11. As per claim(s) 10 Schmier teaches the claimed invention as described in claim(s) 1-9 above and furthermore discloses the information content is selected based on a profile of the individual, (col. 3, lines 12 – 59 and col. 14, lines 38-67).

12. As per claim 19, Schemier discloses a method of providing information content to passengers of an aircraft, comprising: determining the information content that is of interest to the passenger, before the aircraft departs a terminal, transferring the information content from an information network to a storage medium, providing the information content from the storage medium to the passenger while the aircraft is in flight (See col. 3, lines 12 – 59 and col. 14, lines 38-67).

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13. As per claims 20, 21, 22, 23, 24 and 25, Schemier teaches the determining the information content based on a predetermined profile that is associated with the passenger, transferring the information content automatically, equipping the aircraft with a storage medium, providing content and receiving information from user via network onboard, and providing a viewing device to the passenger (See col. 3, lines 12 – 59 and col. 14, lines 38-67).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- a. Determining the scope and contents of the prior art.
- b. Ascertaining the differences between the prior art and the claims at issue.
- c. Resolving the level of ordinary skill in the pertinent art.
- d. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. **Claims 6, 11, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmier in view of McCarten et al., US Patent No. 5,669,812.**

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17. As per claims 12 Schmier discloses at a transit terminal, providing access over an information network to a repository hosting the information content; at the transit terminal, enabling to transfer the information content over the network between the repository and a mobile storage medium, (Schemier, col. 3, lines 12 – 59 and col. 14, lines 38-67);

However, Schmier does not explicitly teach assigning a traveling location to the individual in a means of transportation (such as an assigned seat on an airplane), the means of transportation including the mobile storage medium; and, providing at the assigned traveling location an apparatus to enable the individual to access the information content.

In the same field of endeavor, McCarten teaches an airline based communications system wherein system assigns a traveling location to the individual in a means of transportation, the means of transportation including the mobile storage medium; and, providing at the assigned traveling location an apparatus to enable the individual to access the information content in the communication-restricted environment, (See McCarten, col. 1, lines 36-64).

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to modify the teaching of Schmier with the teachings of McCarten to include assigning a traveling location to the individual in a means of transportation for the purpose of easily authorizing access to a specific user.

18. As per claim(s) 13, Schemier-McCarten teaches the claimed invention as described in claim(s) 12 above and furthermore discloses the information content is determined from a plurality of information contents on the basis of a profile of the individual, (Schemier, col. 3,

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lines 12 – 59 and col. 14, lines 38-67).

19. As per claim(s) 11 Schemier-McCarten teaches the claimed invention as described in claim(s) 1-10 above and furthermore discloses charging a fee for transferring the information content, (McCarten, col. 7, lines 38-55).

20. As per claim(s) 6 and 16, Schemier-McCarten teaches the claimed invention as described in claim(s) 1-5 above and furthermore discloses the storage medium is mass storage medium, (See Paragraph 0022). However, Schemier-McCarten does not explicitly teach that the storage medium is an Optical storage medium.

21. Examiner takes Official Notice (see MPEP § 2144.03) that use of optical storage devices in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states

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"Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Response to Arguments

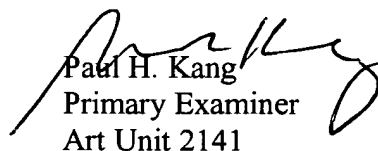
22. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H. Kang whose telephone number is (571) 272-3882. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Paul H. Kang
Primary Examiner
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